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Deletions are shown with the following attributes and color:

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**for additional information**

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Monitoring site L-4-S and L-5-G are for sediment pond discharge and for the mine discharge and have a habitat consisting of an overstory of pinion-juniper.

**330. Operation Plan.** A plan for protection of vegetation, fish and wildlife resources follows:

**331.** The Lila permit area is approximately 4664.32 acres of which only 42.6 acres are within the surface disturbance area. All incidental disturbance, which will not be utilized in operations, will be revegetated with an interim seed mix proven beneficial to wildlife. The revegetation plan is addressed in Section 341 and the seed mixes are addressed in Tables 3-4 and 3-5. Revegetation will ~~occur the~~ occur the first desirable period following disturbance and/or abandonment.

**332.** The extent and degree of subsidence will be in large dependent on both the amount of overburden as well as the mining method. Employees and or consultants of the operator have numerous years of experience mining the Bookcliffs and Wasatch areas and none have observed nor are aware of any negative impacts on wildlife or vegetation, as a result of subsidence, with the exception of

- 1) Escarpment Failure which is not anticipated.
  - 2) Disruption of Surface and / or Ground Water, which is not anticipated.
- (1) Escarpments will be protected by implementing escarpment barriers. An escarpment barrier of a minimum of 200', within which no second mining will take place, will be used to protect all escarpments.
- (2) Disturbance of Surface and / or Ground Water. Considering, the permit area has no surface water with the exception of intermittent or ephemeral flow associated with precipitation events and / or snow melt, subsidence should have no adverse effect. The ephemeral stream channels, in the area's of potential subsidence, will be monitored to insure there are no adverse impacts to the ephemeral flow.
- No negative impacts to vegetation are anticipated. However, vegetation will be monitored in conjunction with subsidence monitoring, utilizing infrared aerial photography once every five

- 333. Major Impact:** The major impact to the wildlife in and around Lila Mine site will be loss of habitat. The loss of habitat will occur during the construction of the site, and will be residual throughout the life of the mine. The operational activities at the site will impact the wildlife slightly. But as observed at operations located in both the Book Cliffs and Wasatch plateau, most of the wildlife in the area will either accept or adjust their behavior to coexist with the operation.

The examples below are just some of the observations that the operator has experienced that demonstrates most wildlife accepts or adjusts to coexist with mining operations:

At U.S. Fuel Company, deer were observed crawling under railcars. Deer were observed fawning just inside old portals for three consecutive years.

At Genwal, deer have been observed on a consistent basis crossing a perennial stream to drink from the sediment pond. Bear and elk have been observed on numerous occasions from the bathhouse, office, and parking lot grazing only a few hundred feet away.

At Beaver Creek, deer have been observed drinking from the sediment pond on an almost daily basis. Bear, lion and elk were observed from the bathhouse offices. Deer were observed crawling under low conveyors instead of using a 10' elk crossing only 20' away.

At Kaiser, Rocky Mountain Bighorn Sheep were observed from the mine office on a regular basis.

At Horse Canyon Bighorn Sheep have been observed in and around the #1 and #2 sediment ponds. The Bighorns have been photographed grazing directly across the road from the inactive mine facilities.

Dust abatement and dust control as outlined in Chapter 5, such as covered conveyors, water sprays, and the minimization of large stockpiles will adequately protect adjacent undisturbed area within and surrounding the surface facilities.

~~First seam mining (Leaving the pillars) should adequately protect existing~~

~~raptor nests from subsidence.~~ It was determined that all nests within a ½ mile radius of the surface facilities have a high probability of being abandoned by indirect disturbance associated with mine activities. The Lila Canyon EA # UT-070-99-22, outlines mitigation recommended through a cooperative effort between Utah Department of Wildlife Resources, Bureau of Land Management, U.S. Fish and Wildlife and UtahAmerican Energy, Inc. where mitigation would be implemented to increase prey base off-site. The construction of alternative nests was considered to be ineffective. Eagle distribution was not limited by suitable nest sites but by available prey.

An MSO two-year calling survey will be completed according to Appendix 3-4. Results as described in Appendix 3-4 will be reported to the Division, UDWR, and USFWS. This two-year survey will include four night time surveys with no more than one survey prior to end of April and at least three surveys prior to end of July. Results will be submitted to USFWS, DWR, and the Division immediately following of each night time survey. If owls are observed, the agencies will immediately coordinate to determine appropriate measures.

Construction at the mine to upgrade drainage controls and to construct the road will have a minor impact on wildlife in the area. The impact will mainly be increased human activity associated with the construction and a small, less than 42.6 acre, loss of habitat for the mine site, roads and sedimentation pond. These impacts will have little or no affect on the wildlife because they will be completed in an environmentally sound manner.

UEI will instruct all personnel as to current regulations regarding the use of off-road vehicles, firearm regulations, and where current UDWR proclamations are available. This training will be part of the annual refresher offered to all employees. The company will encourage strict compliance with these regulations.

DWR will be notified of any road kills involving large game and request to have them removed to safeguard raptors. Mine personnel will be instructed to remove road kills a safe distance from the road way.

The Lila Canyon Mine has agreed to mitigate the loss of wildlife habitat as well as the potential loss of habitat use due to disturbance.

This mitigation is under advisement of the wildlife professionals of both the BLM and the Utah Division of Wildlife Resources. The mitigation designed will offset impacts to bighorn sheep, mule deer, elk, and

chukker specifically. The mitigation committed to in association with the Lila Mine EA is :

- (1) Install two guzzlers
- (2) Participate in a BLM habitat enhancement program on ~~70~~76.14 acres-conversion from Pinyon/Juniper to shrubs, forbs, and grasses.

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NOTE: The 76.14 acres is less than the EA 2000 EA acres of 93.11. This difference is a result of the EA evaluating more acreage than what will actually be disturbed. The 2000 EA considered what it calls the Lila Canyon Road which will not be constructed, thus not disturbed. The Lila Canyon Road, not being constructed, refereed to in the EA, contains 16.97 acres. The actual acres for habitat enhancement will be  $93.11 - 13.23 - 3.74 = 76.14$  acres of enhancement.

The overseeing agency for the EA mitigation/enhancement will be the BLM. The implementation dates, and project locations will not be determined until the BLM notice to proceed is given, after permit approval. The Permittee will submit the BLM mitigation plan as an Appendix to this volume within one year of the initial mine construction. The BLM plan will include: project goal, expected benefits, project procedures, company commitment, implementation dates, project location and agencies contacts.

**333.100.** This section is addressed in 333. And 333.300.

**333.200.** This section is addressed in 333. And 333.300.

**333.300** The goal of the mine is to construct all facilities and conduct mining in such a manner to minimize adverse impacts to wildlife. These measures will include but are not limited to:

1. Interim revegetation with desirable plant species for wildlife, with the exception of transportation corridors.
2. Speed limits on all roads to lesson potential for possible animal/vehicular collisions.
3. Wildlife awareness training to be incorporated into the annual safety training for all employees.



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lessen disturbance.

5. The Operator will ensure that DWR surveys for cliff nesting raptors within proposed facilities areas at least two years prior and one year following construction. The Operator will conduct annual raptor surveys.

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As part of normal mining operation requirements, the Permittee must submit all results of the raptor fly-over surveys to the Division in Annual Reports and must immediately contact the Division, BLM, and USFWS following any raptor survey that shows that eagles are tending nests or nesting. The agencies will immediately coordinate to determine if the Permittee must implement appropriate measures. If the agencies recommend mitigation, the Permittee must submit all plans to the Division for incorporation into Appendix 3 of the MRP.

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6. An active golden eagle nest, with young, was documented during the 1999 spring raptor survey. The nest is located in the left fork of Lila Canyon within the 1-mile buffer zone. (See Plate 3-1). A consultation with USF&W, BLM, and UDWR was held in the fall of 1999. Line of site and potential mitigation was addressed during this meeting. The results of this consultation are addressed in Sec 322.220 and the Lila Canyon EA. This nest was not active in 2000, 2001, 2002, or 2003. A survey was not done in 2004. In 2005 nest 946 contained a possibly dead chick. (See Appendix 3-5 for updated inventories)
7. The Operator will adhere to exclusionary periods when initiating construction and final reclamation projects. The exclusionary periods include: raptors (Feb 1 - July 15), Bighorn sheep lambing (May 1 - June 15), and Pronghorn (May15 - June 20).

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In the event of unforeseen changes in construction or mine plans, or in the case of emergency

situations that may force the Permittee to conduct activity near or within the 0.5 mile buffer zone of raptor nest and during raptor exclusionary periods (February 1 to July 15 for golden eagles), the Permittee will immediately contact the Division, BLM, DWR, and USFWS. The agencies will immediately coordinate to determine appropriate measures that may include conducting ground surveys, in coordination with DWR, to determine if birds are tending nests or nesting and possibly determine the life stage of the offspring; developing a mitigation plan, in coordination with the agencies, for possible impacts to nests or birds; or ceasing operations until the end of breeding season to avoid 'take'. If the agencies recommend surveys, the Permittee must submit all survey results to the Division in Annual Reports. If the agencies recommend mitigation, the Permittee must submit all mitigation plans to the Division for incorporation into Appendix 3 of the MRP.

The Applicant does not plan to monitor any wildlife species during the life of the operation with the exception of raptors. Helicopter spring raptor surveys will be conducted at a minimum of a 1-mile radius around any new or potentially disruptive mining activity, 2-years prior and annually after the proposed activity. The Operator will contact the USFWS and the Division immediately following raptor fly-over surveys if raptors are observed tending nests or nesting.

The mine will emphasize their commitment to legal requirements of firearm and off-road vehicle-use by employees. This type of program has been adopted by the operator and will continue throughout the operation. An education program aimed at minimizing potential negative impacts by employees will be presented during the Operators annual retaining programs. Employees will be informed about the wildlife in the area and about which species are protected. They will be counseled to refrain from poaching or harassing animals and about the need to preserve the wildlife. They will also be instructed on the danger of animals on the road during dusk and night hours and consequently the need to reduce speed to avoid



etc. Speed limits will be posted to minimize vehicular / wildlife accidents. In addition, all suitable water encountered during mining will be discharged in such a manner to make it available to wildlife.

**358.100.** Appendix 3-3 is a letter from U.S. Fish and Wildlife Service identifying all threatened and endangered species that could occur in the permit area or within a one-half mile proximity. All mine personnel will be trained about these species and notify the environmental coordinator at the mine. The environmental coordinator will confirm, if possible, the identification, notify USFWS and the Division, and then take what ever actions are necessary to safeguard both the species and it's habitat.

In addition, a threatened and endangered species inventory will be conducted prior to any disturbance. Historical as well as current threatened and endangered inventories are included in Appendix 3-4.

Prior to any new surface disturbance a raptor inventory will be conducted to ensure that no raptors or their nests or young would be adversely impacted through any mining or mine related activity. A copy of historical raptor data as well as current survey results are attached as Appendix 3-5.

A one-half mile buffer zone of no new disturbance during critical nesting periods will be maintained during that portion of the year that the nest sites are active.

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As part of normal mining operation requirements, the Permittee must submit all results of the raptor fly-over surveys to the Division in Annual Reports and must immediately contact the Division, BLM, and USFWS following any raptor survey that shows that eagles are tending nests or nesting. The agencies will immediately coordinate to determine if the Permittee must implement appropriate measures. If the agencies recommend mitigation, the Permittee must submit all plans to the Division for incorporation into Appendix 3 of the MRP.

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In the event of unforeseen changes in construction or

mine plans, or in the case of emergency situations that may force the Permittee to conduct activity near or within the 0.5 mile buffer zone of raptor nest and during raptor exclusionary periods (February 1 to July 15 for golden eagles), the Permittee will immediately contact the Division, BLM, DWR, and USFWS. The agencies will immediately coordinate to determine appropriate measures that may include conducting ground surveys, in coordination with DWR, to determine if birds are tending nests or nesting and possibly determine the life stage of the offspring; developing a mitigation plan, in coordination with the agencies, for possible impacts to nests or birds; or ceasing operations until the end of breeding season to avoid 'take'. If the agencies recommend surveys, the Permittee must submit all survey results to the Division in Annual Reports. If the agencies recommend mitigation, the Permittee must submit all mitigation plans to the Division for incorporation.

- 358.200.** No coal mining and reclamation operations will be conducted in a manner which would result in the unlawful taking of a bald or golden eagle, its nests, or any of the eggs.
- 358.300.** This section is addressed in 358.200.
- 358.400.** There are no wetlands and / or riparian areas within the area of potential disturbance.
- 358.500.** Each operator will, to the extent possible using the best technology currently available:
- 358.510.** All power and transmission lines will be designed with the best technology available to safeguard raptors.
- 358.520.** All structures; fences, conveyors etc., will be designed to allow free movement of large mammals except in those areas where it is necessary to preclude large animals for their own safety; example: power substations, oil storage area etc.

chapter 7

## WordPerfect Document Compare Summary

Original document: C:\Lila\Correspondance\2007\Submittals\07-002 List 2-3\Chapter 7 06-018.wpd

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Deletions are shown with the following attributes and color:

~~Strikeout~~, Blue RGB(0,0,255).

Deleted text is shown as full text.

Insertions are shown with the following attributes and color:

Double Underline, Redline, Red RGB(255,0,0).

The document was marked with 3 Deletions, 2 Insertions, 0 Moves.

**731.521 Portal Location** The proposed access portals are below the coal outcrop, as shown on Figure 7-1, Plates 5-5 and 7-5. The fan is to be located above, at the outcrop. The rock slopes will slope up to the east at approximately 12% to contact the coal seam; however, the coal seam is dipping down to the east in this area. The approximate point of contact between the rock slopes and the coal seam will be 1227' from the surface at an elevation of 6300'. Ground water levels in the mining area, based on the 3 water monitoring

holes and other geologic data, appear to be nearly static at elevation 5990 in this area (see Figure 7-1).

Water level in the mine would have to raise approximately 310' to reach the rock slope/coal seam contact and result in a gravity discharge. Water monitoring results and other historical data in the area do not indicate this is likely to occur.

**731.522 Surface Entries after January 21, 1981** This is not known to be an acid-producing or iron-producing coal seam; however, proposed portals are located to prevent gravity discharge from the mine (see Section 731.521).

**731.600 Buffer Zones** All streams within the permit area are either ephemeral or intermittent by rule with ephemeral flow. In the area of the surface facilities along the intermittent by definition Lila Wash, the Operator will install stream buffer zone signs in locations shown on Plate 5-2 and maintain the buffer zones during throughout Phase 1 of the operation reclamation period.

**731.700 Cross Sections and Maps** The following is a list of cross-sections and maps provided in this section of the P.A.P.

Plate 7-1	Permit Area Hydrology Map
Plate 7-2	Disturbed Area Hydrology/Watershed

## **List 1**

### **List of Baseline Information Deficiencies Lila Canyon Extension to the Horse Canyon Mine January 19, 2007**

#### **Baseline Deficiencies**

Deficiencies that preclude a finding by the Division of baseline adequacy. These deficiencies must be adequately corrected prior to permit issuance.

#### **Ownership and Control Information**

**R645-301-112.310 and -112.340**, The employer identification number is listed for only Murray Energy Corporation, but is required for all other owners and controllers. All information required by R645-301-100 is the responsibility of the permit applicant (see R645-301-111.200).

Addressed in the January 22<sup>nd</sup> submittal. The information is in the permit and can be found in Appendix 1-2.

#### **Cultural and Historic Resources**

**R645-301-300.113**, The application must include proof of the completion, by the Division (as per the delegation by OSM on January 4, 2006 pursuant to 30 CFR 944.30 Article VI (C) (4) (g)), of coordination efforts that meet the requirements under The National Historic Preservation Act (36CFR800; R645-301-300.113). Correspondingly, the application must also include proof of clearances by the SHPO (R645-301-411.142).

**UEI can not do this. It is a Division responsibility.**

"By letter dated February 5, 2007, the SHPO concurred with the Division's determination regarding cultural resources for the Lila Canyon Extension. By letter dated February 5, 2007, the Division requested the ACHP to review and sign the Programmatic Agreement for the Lila Canyon Extension. Copies have been added to Appendix 4-1."

#### **Hydrology**

**R645-301-725**, The Permittee must amend Water Rights Table 7-2 to be complete and accurate and in agreement with Plates 7-1 and 7-3.

Addressed in the January 22<sup>nd</sup> submittal.

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**R645-301-724.100**, Pages VII-30, -32, and -34 of the Kaiser Steel water quality information for S-32 are missing from Appendix 6-1. The Permittee needs to include those pages in the application.

Addressed in the January 22<sup>nd</sup> submittal.

**R645-301-121.120, -542.710, -731.760**, The Permittee needs to redo the Figure 7-1 cross section so that it is accurate and agrees with information on Plates 6-1 and 7-1. The corrections must include the following:

The horizontal scale and vertical exaggeration need to be accurate and to scale with Plate 7-1:

Plate 7-1, Figure 7-1 and Figure 7-1A are accurate and to scale.

The topography needs to match the topography on Plate 7-1;

The topography on Figure 7-1 and Figure 7-1A has been revised to match the topography on Plate 7-1.

The surface geology needs to match that on Plate 6-1;

The surface geology on Figure 7-1 and Figure 7-1A matches the geology on Plate 7-1.

Dip and thickness of geologic units need to correlate with the cross section vertical exaggeration and information on the maps;

The dip and thickness of the geologic units found on Figure 7-1 and Figure 7-1A correlates with the cross section vertical exaggeration and information on the maps.

The location of the coal/potentiometric surface contact needs to match be accurately depicted, generally corresponding with the data on Plate 7-1;

The location of the coal/potentiometric surface contact generally corresponds to data on Plate 7-1.

The projections of the IPA piezometers need to be removed or projected taking surface elevations and strike of the strata into account.

The IPA piezometers have been projected taking surface elevations and strike of the strata into account.

**R645-301-121.120, -542.710, -731.760**, The coal/potentiometric surface contact depicted on Plate 7-1 needs to correspond with the coal elevation and potentiometric surface contour lines, as it was in prior application submittals.

Addressed in the January 22<sup>nd</sup> submittal

## **List 2**

### **Conditional List Lila Canyon Extension to the Horse Canyon Mine January 19, 2007**

#### **Conditional Deficiencies**

Deficiencies that could be "conditioned" on the permit and must be corrected within 30 days of permit issuance to facilitate a clear and concise mining and reclamation plan (MRP) (R645-301-121.200).

#### **Engineering**

**R645-301-525.240, -525.460 and -525.490,** The Permittee must submit on the confidential subsidence map (Plate 5-3 Confidential) the anticipated effects of subsidence including but not limited to projected subsidence isopachs and strains.

*Plate 5-3 Confidential has been revised adding the isopachs for strain and subsidence.*

In addition, the Permittee must also accurately show the location of all raptor nests in and around the subsidence zone. Specifically, the Division needs to be able to make a finding of how many raptor nests are within the subsidence zone.

*All raptor nests have been plotted using GPS coordinates.*

**R645-301-521.140,** The legend on Plate 5-2 needs to be corrected. Over-printing has left some icons and definitions missing.

*Addressed in the January 22<sup>nd</sup> submittal.*

#### **Biology/Cultural and Historic Resources**

**R645-300-124.300,** The Permittee must move Appendix X-1 and X-2 from the MRP-Part A Volume IV to the Confidential File. (Note, this deficiency was carried over from a previous list of deficiencies.)

*Instructions have been added to the C2 form. The operator has moved the Appendices as per previous instructions in the operators copy of the permit. DOGM must either allow the operator to update the Divisions plans upon submittal or follow the C2 form instructions and make the move themselves.*

**R645-301-121.200,** The Permittee must clarify entries in the Historic Resource Information section concerning the Programmatic Agreement, protection of listed sites, direct/indirect impact, and information on sites within the permit and surrounding area.

- The Permittee must address why the mitigation project acreage is presented as 70+ in the MRP instead of approximately 93 acres as stated in the 2000 EA.

*The following text was added to the end of Section 333*

*NOTE: The 76.14 acres is less than the EA 2000 EA acres of 93.11.*

*This difference is a result of the EA evaluating more acreage than what will actually be disturbed. The 2000 EA considered what it calls the Lila Canyon Road which will not be constructed, thus not disturbed. The Lila Canyon Road, not being constructed, refereed to in the EA, contains 16.97 acres. The actual acres for habitat enhancement will be  $93.11 - 13.23 - 3.74 = 76.14$  acres of enhancement.*

- The Permittee must remove the conflicting information on pages 10 and 16/17.

*The following conflicting statement on Page 16 was removed.  
"First seam mining (Leaving the pillars) should adequately protect existing raptor nests from subsidence."*

**R645-301-322.100, -322.220, R645-301-322.100, -322.220,**

- As part of normal mining operation requirements, the Permittee must submit all results of the raptor fly-over surveys to the Division in Annual Reports and must immediately contact the Division, BLM, and USFWS following any raptor survey that shows that eagles are tending nests or nesting. The agencies will immediately coordinate to determine if the Permittee must implement appropriate measures. If the agencies recommend mitigation, the Permittee must submit all plans to the Division for incorporation into Appendix 3 of the MRP. These provisions must be included in Section 358.100 of the MRP as a complement to the existing commitment on page 38 as well as in Section 333.300 as part of the existing "protection" list.

*The following text has been added to Sections 358.100 and 333.300 "As part of normal mining operation requirements, the Permittee must submit all results of the raptor fly-over surveys to the Division in Annual Reports and must immediately contact the Division, BLM, and USFWS following any raptor survey that shows that eagles are tending nests or nesting. The agencies will immediately coordinate to determine if the Permittee must implement appropriate measures. If the agencies recommend mitigation, the Permittee must submit all plans to the Division for incorporation into Appendix 3 of the MRP."*

- Although the Permittee agrees to adhere to the exclusionary period, the provisions in this paragraph add additional protection in the event of unforeseen changes in construction or mine plans, or in the case of emergency situations that may force the Permittee to conduct activity near or within the 0.5 mile buffer zone of raptor nest and during raptor exclusionary periods (February 1 to July 15 for golden eagles). The MRP must include a provision that states that, in the event of unforeseen events, the Permittee will immediately contact the Division, BLM, DWR, and USFWS. The agencies will immediately coordinate to determine appropriate measures that may include conducting ground surveys, in coordination with DWR, to determine if birds are tending nests or nesting and

possibly determine the life stage of the offspring; developing a mitigation plan, in coordination with the agencies, for possible impacts to nests or birds; or ceasing operations until the end of breeding season to avoid 'take'. If the agencies recommend surveys, the Permittee must submit all survey results to the Division in Annual Reports. If the agencies recommend mitigation, the Permittee must submit all mitigation plans to the Division for incorporation into Appendix 3 of the MRP. These provisions must be included in Section 358.100 of the MRP as a complement to the existing commitment on page 38 as well as in Section 333.300 as part of the existing "protection" list.

The following text was added to Section 358.100 and 333.300. In the event of unforeseen changes in construction or mine plans, or in the case of emergency situations that may force the Permittee to conduct activity near or within the 0.5 mile buffer zone of raptor nest and during raptor exclusionary periods (February 1 to July 15 for golden eagles), the Permittee will immediately contact the Division, BLM, DWR, and USFWS. The agencies will immediately coordinate to determine appropriate measures that may include conducting ground surveys, in coordination with DWR, to determine if birds are tending nests or nesting and possibly determine the life stage of the offspring; developing a mitigation plan, in coordination with the agencies, for possible impacts to nests or birds; or ceasing operations until the end of breeding season to avoid 'take'. If the agencies recommend surveys, the Permittee must submit all survey results to the Division in Annual Reports. If the agencies recommend mitigation, the Permittee must submit all mitigation plans to the Division for incorporation

- The Permittee must clearly illustrate the number of all raptor nests (not just golden eagle) within the subsidence zone. If the mining plan shows that there are one or more raptor nests located within the subsidence zone, the Permittee must provide a mitigation plan for possible subsidence of the nest(s). The Permittee must coordinate with the Division, DWR, USFWS, and BLM to develop a mitigation plan similar to the plan developed for the Bear Canyon Mine between 2006-2008. The plan must include the name of the lead agency, proposed date of implementation, a reporting mechanism, as well as the mitigation proposal. The MRP must include a provision that states the Permittee will apply for a nest 'take' permit, through the USFWS, if the mitigation plan includes preventing raptors from accessing nests. The Permittee must apply for 'take' permits 6-12 months prior to potentially subsidizing nests. The Permittee must submit all mitigation plans and final reports to the Division for incorporation into Appendix 3 of the MRP. These provisions must be included in Section 358.100 of the MRP as a complement to the existing commitment on page 38 as well as in Section 333.300 as part of the existing "protection" list.

From Plate 5-3 Confidential, clearly illustrates that there is only one raptor

nest within the maximum limit of subsidence. This nest is #719. Impacts to nest #719 are mitigated by the mitigation approved in the 2000 EA on pages 59 and 60. Nest #719 has never been tended or active in the eight years of monitoring.

### Geology

**R545-301-722**, The Permittee needs to clarify the Legend panel on Plate 6-1 and reconcile it with the map. The corrections must include the following:

Surface water monitoring sites are shown by both red stars and red dots. If there is a difference, it needs to be clarified; otherwise, the same symbol should be used for all similar sites;

Addressed in the January 22<sup>nd</sup> submittal

The symbol and text for seeps L-16-G and L-17-G need to match the other seeps and springs. These two seeps are shown by a red dot and red lettering (matching the surface water monitoring points) rather than by the blue dot and black lettering used for the other seeps and springs; and

Addressed in the January 22<sup>nd</sup> submittal

Under the Description of Map Units, the arrangement of these units in the Legend is confusing. The Price River Formation units (Kpb and Kpm) are out of stratigraphic sequence; the Price River units should be between the Flagstaff and North Horn (TKfn) and Castlegate (Kc) units, the relationship between Upper Mudstone Member of the Kenilworth Member of the Blackhawk Formation (Kbk) and the Upper Member of the Sunnyside Member of the Blackhawk Formation (Kbs) is reversed, and the Sunnyside Member should be above the Kenilworth Member.

Plate 6-1 has been corrected.

### Hydrology

**R645-301-722.200**, Appendix 7-9, pages 1 and 3, need updating to reflect current conditions of stream diversions and water rights status on stock ponds.

Addressed in the January 22<sup>nd</sup> submittal.

**R645-301-121.200**, Update the Chapter 7 Table of Contents to reflect proper title for Appendix 7-11.

Addressed in the January 22<sup>nd</sup> submittal.

**R645-301-722.200**, Update Plates 5-3, 7-1 and 7-3 to show the actual locations of stock ponds located southwest of the permit area (Water Rights Nos.91-2617 through 912621) as was found during the site visit of December 19, 2006.

Plate 5-3 has been revised.



Plate 7-1 Addressed in the January 22<sup>nd</sup> submittal.

Plate 7-3 Addressed in the January 22<sup>nd</sup> submittal.

**R645-301-738, -755**, Update Sections 738 and 755 of the MRP to be consistent with the commitment of casing, sealing, and reclamation of piezometers as stated in Sections 748 and 765

Addressed in the January 22<sup>nd</sup> submittal

**R645-301-728**, Update the PHC (p. 11) to accurately describe the conditions, source water, and use associated with stock ponds located southwest of the permit area.

Addressed in the January 22<sup>nd</sup> submittal

**R645-301-521-260, -731.600**, Section 731.600, Buffer Zones, should be updated to remove the statement that “buffer zones are not required”. In addition, this section should state that buffer zones will be retained throughout Phase 1 of the reclamation period.

Chapter 7 Page 72 has been revised.

**R545-301-722**, The Permittee needs to clarify the Legend panel on Plate 7-1 and reconcile it with the information on the map. The corrections must include the following:

Water rights are not indicated in the Legend, yet water rights are shown on the map;

Addressed in the January 22<sup>nd</sup> submittal

Water right numbers used to identify some surface-water monitoring locations and springs need to be consistent with those used throughout the rest of the plan;

Addressed in the January 22<sup>nd</sup> submittal

Some water -right numbers are black, others green.

Addressed in the January 22<sup>nd</sup> submittal

Some spring symbols are green, others blue. Resolving points 1 and 2 may take care of this; otherwise, these distinctions need to be clarified in the Legend;

Addressed in the January 22<sup>nd</sup> submittal

If a water right is also a monitoring location, it should be indicated as such;

Plate 7-1 has been modified adding monitoring locations to applicable water right numbers.

Surface water monitoring site L-18-S is a red dot, and the other surface-water monitoring points are stars. If there is a difference, it needs to be clarified; otherwise, the same symbol should be used for all similar sites; and

Addressed in the January 22<sup>nd</sup> submittal

Some water right numbers and water monitoring sites are printed on top of each other or obscured by other text so they are difficult and at times impossible to read. The Permittee needs to make all spring and seep and water right IDs legible.

Addressed in the January 22<sup>nd</sup> submittal

**R645-301-731.200**, Update Water Monitoring Table 7-3 and the monitoring list in Section 731.220, so sites L-14-S and L-18-S continue as operational and reclamation monitoring sites. Table 7-3 should also identify the period of monitoring for these sites (baseline, operational, reclamation).

Addressed in the January 22<sup>nd</sup> submittal

### **List 3**

#### **Courtesy Reminder List Of Items Needed to Issue a Permit Lila Canyon Extension to the Horse Canyon Mine January 19, 2007**

##### **Needed to Issue a Permit**

These three items must be completed prior to permit issuance.

##### **Bonding**

**R645-300-151 and R645-301-830.200**, If the application is approved, the permit will be issued upon submittal of a performance bond in accordance with R645-301-800. The Permittee must increase their bond amount by a minimum of \$131,000 prior to permit issuance. The total bond amount for the Horse Canyon Mine and the Lila Canyon Extension would be \$2,747,328. (Horse Canyon Mine bond - \$1,061,328 and the Lila Canyon Extension - \$1,686,000 [\$1,556,000 is already posted]).

##### **Ownership and Control and Compliance Information**

**R645-301-112.900**, After an applicant is notified that his or her application is approved, but before the permit is issued, the applicant shall, as applicable, update, correct or indicate that no change has occurred in the information previously submitted under R645-301-112.100 through R645-301-112.800.

**R645-301-113.400**, After an applicant is notified that his or her application is approved, but before the permit is issued, the applicant shall, as applicable, update, correct or indicate that no change has occurred in the information previously submitted under R645-301-113.

# **Horse Canyon Extension Lila Canyon Mine**

## **Chapter 3 Biology**

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### **300. BIOLOGY**

#### **310. Introduction.**

- 311. Vegetative, fish, and wildlife resources of the permit area and adjacent areas are described in section 320.
- 312. Potential impacts to vegetative, fish and wildlife resources and methods proposed to minimize these impacts during coal mining and reclamation operations are described in sections 330 and 340.
- 313. Proposed reclamation designed to restore or enhance vegetative, fish and wildlife resources to a condition suitable for the designated post-mining land use are described under section 340.

#### **320. Environmental Description.**

- 321. Vegetation Information: The permit application contains the following vegetation information.

**321.100.** This section presents a discussion of the vegetation resources in the Lila Canyon Mine Extension Area and adjacent areas. The work was authorized initially by Kaiser Steel Corporation in 1982 and was referred to as the "South Lease Tract." In 1985 Kaiser Coal incorporated a portion of the data from the South Lease and expanded it to include the Horse Canyon mine permit area. In 1990 this data was again updated and used to formulate the Mine Reclamation Plan for the Horse Canyon mine site and adjacent disturbance. This information can be found in the Horse Canyon MRP.

The Lila Canyon mine permit area encompasses a portion of the reclaimed Horse Canyon Mine and virtually all of the South Lease area (See Plate 1-1 Permit Area Map). Aerial photography was used to map the vegetation within the permit area.

A vegetation inventory was commissioned by UtahAmerican Energy, Inc. in 2003 to determine vegetation resources specific to the Lila Canyon Mine surface area. A copy of the report is included in Appendix 3-1.

As requested by the Division, Canyon sweetvetch, Cliffs blazing star and creutzfeldt-flower will be surveyed for at least the year construction begins or one year prior to construction.

**321.200.** A determination of the productivity of the land within and around the permit extension area was implemented by Dean Stacy, Range Management Specialist for the NRCS Natural Resources Conservation Service, and is included in Appendix 3-2. Productivity of the vegetation in the grass-shrub resource area was 450#/acre. The pinyon juniper area to be disturbed the production was estimated to be 250 to 350 #/acre. The pinyon Juniper area, within the disturbed area, will be reclaimed to a grass shrub community.

**322.** Included in the permit extension application is fish and wildlife resource information for the extension area and adjacent areas.

**322.100.** The scope and detail of the fish and wildlife resource information presented in this chapter is sufficient to design the protection and enhancement plan.

**322.200.** Site specific resource information necessary to address the respective species or habitats is included.

**322.210.** The United States Fish and Wildlife Service publish yearly, in the federal Register, lists of endangered and threatened species. TABLE 3-1 cites federally listed threatened or endangered species which may occur in this area of Utah. Three species listed are potential inhabitants of the general area of Lila Canyon; the black-footed ferret, MSO, and bald eagle.

The 2000 model for Mexican Spotted Owl Habitat was used to identify potential MSO habitat. The results can be found in Appendix 3-4.

The proposed addition to the permit area does not contain habitat for southwestern willow flycatchers. There are no perennial water sources or riparian

areas in either the current permit area or the proposed addition, and according to verbal information from UEI's consultant, there are few, if any, willows or similar riparian-type vegetation associated with the seeps and springs in the proposed addition to the permit area. There may have been a few willows or shrubs, but there were no dense patches as would be required by southwestern willow flycatchers.

Lila Canyon Mine will have below-ground electrical power lines. These lines will be constructed to minimize potential hazards to all raptors new to the site, all will be designed and constructed in accordance with the guidelines set forth in Environmental Criteria for Electric Transmission Systems or as approved by DOGM.

**322.220.**

The permit area for Lila Canyon Mine is located within the Price River Resource Area. Surface water in the adjacent areas drains into Grassy Trail Creek and Cottonwood Wash, both tributaries of the Price River. The environment around the 42.6 acre mine site is within the Upper Sonoran life zone. The dominate Vegetation communities within the proposed disturbed area are pinyon-juniper and grass-shrub. Community types surrounding the proposed disturbed area are primarily pinyon-juniper, mixed conifer, spruce-fir, grass, and sagebrush-grass.

The Upper Sonoran life zone can provide habitat for approximately one hundred and forty-two species of wildlife. Two separate reports by the Utah Division of Wildlife Resources (DWR) identify species having potential to inhabit the region. The species that is considered to be of high interest in the local area is the Pronghorn. Pronghorns are found as year-long residents within and adjacent to the permit area. These animals were transplanted to this site by the DWR in 1972 and are part of the Iceland Antelope Herd Unit II. Pronghorn prefer open sagebrush-

desert and shrub-grassland habitats in areas of the Western United States. They are primarily browsers but are known to forage on grasses and forbs during spring and summer (FWS, 1978).

The pinyon-juniper woodlands, and interspersed sagebrush parks are winter range for mule deer. Many of the drier slopes are essentially juniper stands of scattered trees. The mule deer winter use is restricted to periods when snow is available or surface water is present during snow melt in the early spring, and the UDWR has rated this winter range as high priority.

Elk winter range is located at higher elevations than that of the disturbed area and is not a factor in the disturbed site.

Other wildlife in the pinyon-juniper woodlands are reptiles, passerine birds, lagomorphs, and small rodents.

The talus slopes in the canyon are home to rodents and reptiles. They are also used by chukars. Snake dens are unknown in the talus slopes.

The cliffs are generally north-facing and have potential as raptor nesting sites. Spring raptor inventories were initiated in the spring of 1998. The results of the annual raptor surveys are included in Appendix 3-5.

The intermittent / ephemeral stream channels

TABLE 3-1

FEDERALLY LISTED ENDANGERED AND THREATENED ANIMAL SPECIES

---

Mammals

\_\_\_\_\_ Black-footed ferret (1) (Mustela nigripes)

Birds

Bald eagle (2) (Haliaeetus leucocephalus)

\*Southwestern willow flycatcher (2)

Mexican Spotted Owl (3) (Strix occidentalis lucida)

Fish

Colorado squawfish (Ptychocheilus lucius)

Bonytail Chub (Gila elegans)

Humpback Chub (Gila cypha)

Razorback Sucker (Xyrauchen texanus)

- 
- (1) No confirmed sightings have occurred in Utah in recent years.
- (2) Nests in Utah.
- \* No suitable nesting habitat within the permit area.
- (3) Nests in Utah. (See Appendix 3-4 for Mexican Spotted Owl Habitat Survey Plan)

(A complete list of all potential T&E species found in Emery County is included in Appendix 3.3)



lacks riparian vegetation; thus many bird species of high federal interest would not utilize this area example southwestern will flycatcher. The lack of trees or large shrubs precludes the use of woodpeckers. The stream channels do not support fish or an established invertebrate fauna.

The UDWR has submitted general information to be included in the wildlife plans of previous permit applications. Their information covers all the biogeological areas found on the Tavaputs Plateau which includes the Upper Sonoran, Transition, Canadian, and Hudsonian life zones. As noted previously only the Upper Sonoran life zone is represented within the permit area.

This UDWR general information is included in this application because it provides an overall description of the wildlife and wildlife habitats in the general area. The information is also useful in providing habitat information for design of the reclamation of the disturbed area. Thus the past wildlife habitat conditions can be emulated by reclamation and wildlife accommodated as they return to the mine site area upon final reclamation. (See Appendix 3-6, abbreviated)

The DWR has submitted information over the years in commenting on the various wildlife plans submitted in prior permit applications.

The ranking of wildlife values on coal-producing lands in Utah are found in Table 3-2 and are in the following list. The four rankings are in effect until June 30, 2006. The new rankings will have only two categories as shown.

Current

- 1 = Crucial-critical habitat
- 2 = High priority habitat
- 3 = Substantial value habitat
- 4 = Seasonal - Limited

After June 2006

1= Crucial

2= Substantial

**Table 3-2 Ranking of Wildlife Habitat (Prior to 2004)**

<u>Species</u>	<u>Management Area</u>
Rocky Mt. Big Horn (Seasonal)	5,411 Acres
Elk (Winter habitat)	19,840 Acres
Elk (Summer habitat)	1,280 Acres
Mule Deer (Critical)	9,280 Acres
Mule Deer (Year Long)	16,000 Acres
Pronghorn Antelope (Year Long)	12,160 Acres

It is important to note that the actual disturbed area (approximately 42.6 acres) is not critical elk or deer winter range but is habitat for Rocky Mountain Big Horn Sheep.

According to DWR, Rocky Mountain Bighorn Sheep spend all year along the escarpments in the Lila Canyon area of the Book Cliffs. DWR and the Division visited the proposed disturbed area on June 11, 2002. Prior to the visit, the DWR representative was concerned that sheep may need to move further up the cliff when traveling the escarpments because of the mine and that sheep would likely leave the area. After the visit, the DWR representative felt that the sheep use of Lila Canyon may not be affected. The change in opinion may be due to the fact that the DWR representative was not familiar with the specifics of the mine plan until the site visit.

Rocky Mountain Big Horn Sheep appear to have a low tolerance for disturbance. Considering the low population density and the abundance of suitable similar habitat this impact appears to be slight.

The loss of range for Big Horn Sheep is mitigated

and is defined in the Environmental Assessment submitted in association with the Right-Of-Way applications.

The USFWS recognizes that the permit area is within range of endangered species, including the black-footed ferret, MSO, and the bald eagle (Letter dated February 4, 1998, Appendix 3-3).

Raptor surveys were initiated in 1998 and continue annually with the exception of 2004. These surveys were initiated before ground-breaking of the Lila project. The results of these surveys are in Appendix 3-5. The entire Book Cliffs escarpment within the permit area was inventoried for cliff nesting raptors. In addition, a 1-mile buffer zone was inventoried around areas of potential development.

An active golden eagle nest, with young, was documented during the 1999 spring raptor survey. In 2005 nest 946 contained a chick that was possibly dead. USFWS, Laura Roma, UDWR, Chris Colt, and BLM, Dave Mills determined, during the EA process, that there was a high probability these nest sites would be abandoned. A cooperative agreement with the regulatory agencies and UEI was finalized and is made part of the mitigation for the Lila Canyon EA. One nest discussed above, also lies in an area of potential subsidence which is a mute point due to its close proximity to the mine site. Since the nests are located so close to the mine surface facility and that there was a high probability these nest sites would be abandoned, these nests will be mitigated by a prey base off-site vegetation treatment project approved by the USFWS, UDWR and BLM (See page 19 for BLM mitigation information).

Although it was predicted that these nests might be abandoned, the Operator will coordinate closely with USFWS, DWR, and the Division to avoid "take" of golden eagles prior to construction and

during operations. Immediately following any raptor survey that shows that the eagles are tending nests or nesting, the operator will contact the USFWS and DOGM. The agencies will immediately coordinate to determine appropriate measures.

Although the Operator will avoid "take", the operator agreed to the BLM-lead mitigation project that is based on the premise that there is sufficient nest sites in the area to accommodate the population base. The limiting factors appears to be available prey base. Mitigation is designed to enhance the prey base while concurrently enhancing habitat for big game, deer, elk, and bighorn sheep.

It is estimated that mining operations will use an average of approximately 81 acre feet of water annually. The USFWS considers that this volume of water will adversely affect the four endangered Colorado River fish. UEI will report actual water depletion values annually in their annual report.

The USFWS recovery program is reasonable and prudent alternative to avoid the likelihood of jeopardy to these fish.

**322.230.** All known species or habitats needing special protection have been addressed.

**322.300.** Copies of the MRP have been submitted to the Division to allow for distribution to USFWS.

**323.** Maps or aerial photographs of the permit area and adjacent areas have been provided. Plates 3-1 and 3-1A are maps that show all critical habitat, raptor nests and all special habitat features. These plates will be updated on an as needed bases to reflect current conditions such as new raptor nests and/or changes in wildlife use.

**323.100.** The location of the proposed reference area is shown on Figure 1 of Appendix 3-1. Appendix 3-1 is the report for

the 2003 vegetation inventory. The reference area for the mine site disturbance was established during the summer of 2003. The reference area was chosen in an area which represents the natural premining conditions of the permit area. The reference area will facilitate the determination of successful revegetation and the resultant final bond release for the Applicant.

- 323.200.** Monitoring locations are shown on Plate 3-1 and can also be found on the raptor inventory map in Appendix 3-5.
- 323.300.** Protection facilities: There will be no facilities used exclusively for the protection or enhancement of fish and wildlife.
- 323.400.** Plate 3-2 Identifies each vegetative type and plant community. The sample locations used during the vegetation inventory can be found on Figure 1 of Appendix 3-1. Wildlife use areas can be correlated to vegetation with the incorporation of the Wildlife Map, Plate 3-1.

Appendix 7-8 provides a description of each water monitoring location. In Summary monitoring locations L-6-G, L-7-G, and L-11-G have a habitat overstory of Douglas Fir-Mountain Brush association. Water monitoring location L-8-G has a habitat of predominantly pinyon - juniper and sagebrush grass associations. Water monitoring locations L-9-G, L-10-G, and L-12-G have some minor wet meadow habitat with an overstory of pinyon-juniper and sagebrush grass immediately adjacent along each side of the sites. Water monitoring sites L-16-G and L-17-G are both seeps and have a habitat of a mix of grasses and salt desert shrub with some invasive tamarisk.

Sites L-1-S, L-2-S, L-3-S, L-13-S, L-14-S and L-15-S are dry washes with a habitat consisting of sagebrush with an overstory of pinion-juniper.

Monitoring site L-4-S and L-5-G are for sediment pond discharge and for the mine discharge and have a habitat consisting of an overstory of pinion-juniper.

**330. Operation Plan.** A plan for protection of vegetation, fish and wildlife resources follows:

**331.** The Lila permit area is approximately 4664.32 acres of which only 42.6 acres are within the surface disturbance area. All incidental disturbance, which will not be utilized in operations, will be revegetated with an interim seed mix proven beneficial to wildlife. The revegetation plan is addressed in Section 341 and the seed mixes are addressed in Tables 3-4 and 3-5. Revegetation will occur the first desirable period following disturbance and/or abandonment.

**332.** The extent and degree of subsidence will be in large dependent on both the amount of overburden as well as the mining method. Employees and or consultants of the operator have numerous years of experience mining the Bookcliffs and Wasatch areas and none have observed nor are aware of any negative impacts on wildlife or vegetation, as a result of subsidence, with the exception of

- 1) Escarpment Failure which is not anticipated.
- 2) Disruption of Surface and / or Ground Water, which is not anticipated.

(1) Escarpments will be protected by implementing escarpment barriers. An escarpment barrier of a minimum of 200', within which no second mining will take place, will be used to protect all escarpments.

(2) Disturbance of Surface and / or Ground Water. Considering, the permit area has no surface water with the exception of intermittent or ephemeral flow associated with precipitation events and / or snow melt, subsidence should have no adverse effect. The ephemeral stream channels, in the area's of potential subsidence, will be monitored to insure there are no adverse impacts to the ephemeral flow.

No negative impacts to vegetation are anticipated. However, vegetation will be monitored in conjunction with subsidence monitoring, utilizing infrared aerial photography once every five years for those areas that are undermined. This will be done in accordance with the subsidence control plan. (See Section 525). Any loss of or diminished appearance of vegetation will be noted,



confirmed on the ground, and a corrective plan to mitigate the loss will be submitted to the Division of Oil, Gas, and Mining for their approval and concurrence prior to implementation.

It is anticipated that the saturated zone will most certainly produce some water when intercepted in the course of mining. The effect could be positive in the event the mine were to discharge surplus water to the surface. Assuming the water quality was suitable for wildlife, a valuable enhancement fixture could be sustained at a minimum through the life of the mine. While it is possible subsurface disruption of ground water could occur as a result of subsidence it is problematically slight. (See Appendix 7-3 Probable Hydrologic Consequences (PHC).)

The losses of wildlife habitat and or vegetation through subsidence is not anticipated. The mined portion of the permit area will be monitored visually each spring for evidence of subsidence. In the event vegetation and or wildlife habitat were impacted; mitigation could take the form of: 1) habitat enhancement - through selected manipulation of existing undisturbed areas to increase productivity of preferred forage species, and 2) off site water sources such as construction of guzzlers and stock water impoundments.

Each of the above would need to be analyzed on a site specific bases, taking all agencies (UDWR, UDOGM, and BLM) input into a viable, workable, course of action to be implemented by the mine and as stipulated in the Lila Canyon EA.

**Table 3-3**  
**Time Table of Reclamation**

April 16, 2020	Begin Demolition
November 15, 2020	Complete Demolition
April 16, 2021	Commence Earthwork
August 30, 2021	Completion of Phase 1 (Earthwork) Lower Area
September 1, 2021	Begin Earthwork Road / Portal Upper Area
October 1, 2021	Seeding and Mulching (Weather dependent) Completion of Earthwork Upper Area
November 1, 2021	Fencing
November 15, 2021	Reclamation Completed
July 2025	Ocular Estimates of Success (Remedial seeding if necessary September 2026)
October 2023	Planting Seedlings (If Needed)
July 2027	Quantitative Vegetation Inventory
August 2029	Quantitative Vegetation Inventory Site and Reference Area
August 2034	Quantitative Vegetation Inventory of Referenced Area and Project Site, Bond Release Criteria

The tentative life of a mine is twenty years depending on market and mining conditions. As such, the time table is generic and no set year will be specified for the cessation and abandonment of operations.

333. Major Impact: The major impact to the wildlife in and around Lila Mine site will be loss of habitat. The loss of habitat will occur during the construction of the site, and will be residual throughout the life of the mine. The operational activities at the site will impact the wildlife slightly. But as observed at operations located in both the Book Cliffs and Wasatch plateau, most of the wildlife in the area will either accept or adjust their behavior to coexist with the operation.

The examples below are just some of the observations that the operator has experienced that demonstrates most wildlife accepts or adjusts to coexist with mining operations:

At U.S. Fuel Company, deer were observed crawling under railcars. Deer were observed fawning just inside old portals for three consecutive years.

At Genwal, deer have been observed on a consistent basis crossing a perennial stream to drink from the sediment pond. Bear and elk have been observed on numerous occasions from the bathhouse, office, and parking lot grazing only a few hundred feet away.

At Beaver Creek, deer have been observed drinking from the sediment pond on an almost daily basis. Bear, lion and elk were observed from the bathhouse offices. Deer were observed crawling under low conveyors instead of using a 10' elk crossing only 20' away.

At Kaiser, Rocky Mountain Bighorn Sheep were observed from the mine office on a regular basis.

At Horse Canyon Bighorn Sheep have been observed in and around the #1 and #2 sediment ponds. The Bighorns have been photographed grazing directly across the road from the inactive mine facilities.

Dust abatement and dust control as outlined in Chapter 5, such as covered conveyors, water sprays, and the minimization of large stockpiles will adequately protect adjacent undisturbed area within and surrounding the surface facilities.

It was determined that all nests within a ½ mile radius of the surface

facilities have a high probability of being abandoned by indirect disturbance associated with mine activities. The Lila Canyon EA # UT-070-99-22, outlines mitigation recommended through a cooperative effort between Utah Department of Wildlife Resources, Bureau of Land Management, U.S. Fish and Wildlife and UtahAmerican Energy, Inc. where mitigation would be implemented to increase prey base off-site. The construction of alternative nests was considered to be ineffective. Eagle distribution was not limited by suitable nest sites but by available prey.

An MSO two-year calling survey will be completed according to Appendix 3-4. Results as described in Appendix 3-4 will be reported to the Division, UDWR, and USFWS. This two-year survey will include four night time surveys with no more than one survey prior to end of April and at least three surveys prior to end of July. Results will be submitted to USFWS, DWR, and the Division immediately following of each night time survey. If owls are observed, the agencies will immediately coordinate to determine appropriate measures.

Construction at the mine to upgrade drainage controls and to construct the road will have a minor impact on wildlife in the area. The impact will mainly be increased human activity associated with the construction and a small, less than 42.6 acre, loss of habitat for the mine site, roads and sedimentation pond. These impacts will have little or no affect on the wildlife because they will be completed in an environmentally sound manner.

UEI will instruct all personnel as to current regulations regarding the use of off-road vehicles, firearm regulations, and where current UDWR proclamations are available. This training will be part of the annual refresher offered to all employees. The company will encourage strict compliance with these regulations.

DWR will be notified of any road kills involving large game and request to have them removed to safeguard raptors. Mine personnel will be instructed to remove road kills a safe distance from the road way.

The Lila Canyon Mine has agreed to mitigate the loss of wildlife habitat as well as the potential loss of habitat use due to disturbance.

This mitigation is under advisement of the wildlife professionals of both the BLM and the Utah Division of Wildlife Resources. The mitigation designed will offset impacts to bighorn sheep, mule deer, elk, and chukker specifically. The mitigation committed to in association with the

Lila Mine EA is :

- (1) Install two guzzlers
- (2) Participate in a BLM habitat enhancement program on 76.14 acres-conversion from Pinyon/Juniper to shrubs, forbs, and grasses.

*NOTE: The 76.14 acres is less than the EA 2000 EA acres of 93.11. This difference is a result of the EA evaluating more acreage than what will actually be disturbed. The 2000 EA considered what it calls the Lila Canyon Road which will not be constructed, thus not disturbed. The Lila Canyon Road, not being constructed, refereed to in the EA, contains 16.97 acres. The actual acres for habitat enhancement will be  $93.11 - 13.23 - 3.74 = 76.14$  acres of enhancement.*

The overseeing agency for the EA mitigation/enhancement will be the BLM. The implementation dates, and project locations will not be determined until the BLM notice to proceed is given, after permit approval. The Permittee will submit the BLM mitigation plan as an Appendix to this volume within one year of the initial mine construction. The BLM plan will include: project goal, expected benefits, project procedures, company commitment, implementation dates, project location and agencies contacts.

**333.100.** This section is addressed in 333. And 333.300.

**333.200.** This section is addressed in 333. And 333.300.

**333.300** The goal of the mine is to construct all facilities and conduct mining in such a manner to minimize adverse impacts to wildlife. These measures will include but are not limited to:

1. Interim revegetation with desirable plant species for wildlife, with the exception of transportation corridors.
2. Speed limits on all roads to lesson potential for possible animal/vehicular collisions.
3. Wildlife awareness training to be incorporated into the annual safety training for all employees.
4. Possible restrictions on firearms on the mine site,

and restrictions on off road vehicle usage to lesson disturbance.

5. The Operator will ensure that DWR surveys for cliff nesting raptors within proposed facilities areas at least two years prior and one year following construction. The Operator will conduct annual raptor surveys.

As part of normal mining operation requirements, the Permittee must submit all results of the raptor fly-over surveys to the Division in Annual Reports and must immediately contact the Division, BLM, and USFWS following any raptor survey that shows that eagles are tending nests or nesting. The agencies will immediately coordinate to determine if the Permittee must implement appropriate measures. If the agencies recommend mitigation, the Permittee must submit all plans to the Division for incorporation into Appendix 3 of the MRP.

6. An active golden eagle nest, with young, was documented during the 1999 spring raptor survey. The nest is located in the left fork of Lila Canyon within the 1-mile buffer zone. (See Plate 3-1). A consultation with USF&W, BLM, and UDWR was held in the fall of 1999. Line of site and potential mitigation was addressed during this meeting. The results of this consultation are addressed in Sec 322.220 and the Lila Canyon EA. This nest was not active in 2000, 2001, 2002, or 2003. A survey was not done in 2004. In 2005 nest 946 contained a possibly dead chick. (See Appendix 3-5 for updated inventories)
7. The Operator will adhere to exclusionary periods when initiating construction and final reclamation projects. The exclusionary periods include: raptors (Feb 1 - July 15), Bighorn sheep lambing (May 1 - June 15), and Pronghorn (May15 - June 20).

In the event of unforeseen changes in construction or mine plans, or in the case of emergency



situations that may force the Permittee to conduct activity near or within the 0.5 mile buffer zone of raptor nest and during raptor exclusionary periods (February 1 to July 15 for golden eagles), the Permittee will immediately contact the Division, BLM, DWR, and USFWS. The agencies will immediately coordinate to determine appropriate measures that may include conducting ground surveys, in coordination with DWR, to determine if birds are tending nests or nesting and possibly determine the life stage of the offspring; developing a mitigation plan, in coordination with the agencies, for possible impacts to nests or birds; or ceasing operations until the end of breeding season to avoid 'take'. If the agencies recommend surveys, the Permittee must submit all survey results to the Division in Annual Reports. If the agencies recommend mitigation, the Permittee must submit all mitigation plans to the Division for incorporation into Appendix 3 of the MRP.

The Applicant does not plan to monitor any wildlife species during the life of the operation with the exception of raptors. Helicopter spring raptor surveys will be conducted at a minimum of a 1-mile radius around any new or potentially disruptive mining activity, 2-years prior and annually after the proposed activity. The Operator will contact the USFWS and the Division immediately following raptor fly-over surveys if raptors are observed tending nests or nesting.

The mine will emphasize their commitment to legal requirements of firearm and off-road vehicle-use by employees. This type of program has been adopted by the operator and will continue throughout the operation. An education program aimed at minimizing potential negative impacts by employees will be presented during the Operators annual retaining programs. Employees will be informed about the wildlife in the area and about which species are protected. They will be counseled to refrain from poaching or harassing animals and about the need to preserve the wildlife. They will also be instructed on the danger of animals on the road during dusk and night hours and consequently the need to reduce speed to avoid

colliding with animals difficult to see in these periods of poor light. All threatened or endangered wildlife sighted within or adjacent to the permit area will be reported to the appropriate state and / or federal agency.

The location and construction of the haulage road, as well as measures for the protection of surface hydrology, from sedimentation, including the sedimentation pond and other drainage control structures, are discussed in Chapter 7, Hydrology.

Any waters discharged from the facility will be monitored in accordance with UPDES Permit No.UTG040024. Major disturbances will be scheduled to avoid deer / antelope fawning times.

No use of pesticides or chemicals that have serious consequences to plants or wildlife will be used on the permit area, unless recommended by a regulatory agency and under their direction.

Prevention of fires and their spreading outside the permit area will be accomplished through; water sprays, and fire extinguishers located at all facilities . Wild fires will be addressed by the appropriate state and federal agencies. Operation and reclamation activities will be done in compliance with the Endangered Species Act of 1973. As instructed by the Bureau of land Management and the Utah Division of Wildlife Resources, fencing will be removed when DOGM determines that all reclamation standards have been met. Further measures taken to enhance wildlife habitat during reclamation are discussed under the "Reclamation Plans" section of this chapter.

The interim reseeding of small areas will provide some small amounts of additional forage and seed. Reseeding will particularly benefit rodents and passerine birds seeking seeds in this sparse vegetative type. The seeding of sediment pond slopes usually provides a bonus crop of seeds as the plants are watered by intermittent runoff.

Within the disturbed area, there are areas of undisturbed ground such as in topsoil storage areas. These areas will be posted so as to preclude trespass by vehicles and/or

mine equipment. In addition, dust control will be practiced throughout the life of the mine to minimize impacts from blowing dust.

The sediment pond on the disturbed area will hold water during short periods and will provide some additional surface water for wildlife. The stored water may prolong use of that portion of the winter range by deer because water is often the limiting factor on dry winter ranges. Migrating small birds and mourning doves will also utilize this water to recuperate during their flights, as well as a small indigenous flock of chukkers. In the event the water in the pond were to contain any material which would be hazardous to wildlife (ex: oil, grease), the material would be removed by the use of petroleum selected filtration material. The filtration material will be used when an apparent sheen is visible on the pond. If hazardous materials are observed the Division will be notified immediately to develop a protection plan for wildlife. The pond will be monitored visually daily by surface personnel for signs of oil and grease.

**340. Reclamation Plan.**

A reclamation plan for final revegetation is presented below.

**341.100.** TABLE 3-3 is a timetable of reclamation activities upon cessation of operation. The tentative life of a mine is twenty years depending on market and mining conditions. As such, the time table is generic and no set year will be specified for the cessation and abandonment of operations.

**341.200.** This section is addressed in 341.210.

**341.210.** TABLE 3-4 indicates the species and amounts per acre of seeds to be used in revegetation.

The seed mixture used to revegetate the disturbed areas at Lila Canyon Mine is given on TABLE 3-4, along with the rates of application. The seed mixture was developed for the disturbed area with respect to a number of considerations. Climatic conditions of area and the availability of water were reviewed to assess the need for drought-tolerant

species. The vegetation information was evaluated to determine the seed mixture needs corresponding to productivity, cover and diversity requirements. Data was gleaned from the soils report to select species adapted to the physical and chemical characteristics of the potential seedbed.

- 341.220.** The disturbed area will be reclaimed after all operations have ceased at the mine site and all pertinent structures have been removed. The coal will be loaded out and the surface will be left relatively free of debris. The area will be recontoured to approximate pre-mine configurations. The soil will then be ripped to a depth of 16 -18 inches.

The previously salvaged top soil will then be redistributed over the total disturbed area. Soil depth and soil cover are addressed in Chapter 2. The seedbed will be prepared by completing the final grading and again either gouged or ripped to a depth of 6-18 inches or to bedrock. Ripping the soil will be completed at a speed that maximizes the action of the ripper shanks and promotes spoil material disruption to the required depth.

During the final ripping or gouging process, seedbed material will be collected and sent to a laboratory for analysis to determine fertilizer requirements. The fertilizer recommendations will be added to the soil at the specified rate of application. Seed and fertilizer will be distributed utilizing a hydroseeder. Fertilizer and seed will not be mixed during hydroseeding operations.

Hydroseeding operations will not be conducted when wind velocities would interfere with the even distribution of the material. All efforts will be made to attain an even distribution of seed. (See Appendix 5.8)

Once Hydroseeding is complete, the area will be hydromulched, see Appendix 5-8 and Section

**341.230.**

The area will be seeded and fertilized (if needed) with the recommended species ( see TABLE 3-4), and nutrients at the specified rate of application. At present a general recommendation indicates that 100 pounds per acre of 16-16-8 will need to be added as a nutrient.

All efforts will be made to insure the quality of materials purchased for reclamation activities are maintained throughout all work. Commercially purchased seed will have the seed names, lot number, percentages of purity, germination, hard seed and percentage of maximum weed seed count clearly marked on each container. No seed will be accepted if they contain seeds of a state-recognized noxious weed species. Sources for "common" seed should be those with climatic and elevational characteristics as close to site characteristics as possible. Legume seed will be inoculated with the correct Rhizobium.

**341.230.**

The site will be hydro-seeded with seed and an initial 500#/acre of mulch and 100#/acre of tac agent. Followed shortly by an additional 1500 to 2000#/acre of mulch. Finally, an additional 100#/acre of tac and fertilizer, choice and application rate to be determined by the testing in section 243, will be applied. Fertilizer and seeds will not be mixed together during the hydro-mulching operations.

**341.240.**

There will be no irrigation or supplementary water used during or after the revegetation of the area. There are no planned pest or disease control measures for the mine site reclamation. Pest or disease control measures may be included in this plan if results from the test plot and / or reference area indicate a need. The measures will be consistent with proper rangeland and wildlife management.

**341.250.** A reference area for the mine site disturbance was established adjacent to the proposed facilities during the summer of 2003 (Figure 1, Appendix 3-1). The reference area was chosen in an area which represents the natural premining conditions of the permit area. This reference area will facilitate the determination of successful revegetation and the resultant final bond release for the Applicant.

Comparisons of the revegetated area and the reference area will be made using the data obtained from the ninth and tenth year sampling. This data will be used to obtain statistical information that will show the site meets the requirements for bond release.

**341.300.** The methods outlined have a proven performance based on the successful reclamation of the Horse Canyon Mine in the immediate drainage to the north (less than two miles) in like habitat and aspect.

The Operator will conduct a study to determine the optimum time for seeding warm seasons species (refer to page 29).



**Table 3.4/3.5**  
**INTERIM AND FINAL RECLAMATION SEED MIX**  
**Recommended Seed Mix for Lila Canyon Mine**

Species	Latin Name	Seeds/lb	# Seeds per Acre Planted	% Mix Planted	Seeding Rate Lbs / acre	Seeds / ft <sup>2</sup>
<b>Grasses</b>						
Needle And Thread	Stipa Comata	115,000	230,432	5	2.00	5.3
Indian Ricegrass	Achnatherum humenoides	141,000	282,269	6	2.00	6.5
Basin Wild Rye	Leymus cinereus	130,000	129,373	3	1.00	3.0
Galleta	Hilaria jamesii	314,500	313,632	6	1.00	7.2
Bluebunch Wheatgrass	Pseudoroegneria spicata	140,000	139,392	3	1.00	3.2
Slender Wheatgrass	Elymus trachycaulus	159,000	317,988	6	2.00	7.3
Blue Gamma	Bouteloua gracilis	825,000	827,640	17	1.00	19.0
Subtotal						51.4
<b>Forbs</b>						
Blue Flax	Linum lewisii	293,000	294,030	6	1.00	6.8
Palmer Penstemon	Penstemon palmeri	610,000	152,460	3	0.25	3.5
Globemallow	Sphaeralcea ambigua	500,000	250,470	5	0.50	5.8
Indian Paintbrush	Castilleja linariaefolia	4,915,000	479,160	10	0.10	11.0
Fringed Sage	Artemisia frigida	4,536,000	435,600	9	0.10	10.0
Subtotal						37.0
<b>Shrubs</b>						
Wyoming Big Sage	Artemisia tridentata	2,576,000	653,400	13	0.25	15.0
Green Rabbitbrush	Chrysothamnus nauseosus	400,000	41,382	1	0.10	1.0
Fourwing Saltbush	Atriplex canescens	52,000	43,560	1	0.84	1.0
Winterfat	Ceratoides lanata	56,700	56,628	1	1.00	1.3
Shadscale	Antriplex confertifolia	64,900	64,904	1	1.00	1.5
Cliffrose	Cowania mexicana	64,600	64,469	1	1.00	1.5
Black Sage	Artemisia nova	907,200	230,868	5	0.25	5.3
Subtotal						26.5
<b>TOTAL PER ACRE</b>		<b>16,799,900</b>	<b>5,007,658</b>	<b>100</b>	<b>16.39</b>	<b>115</b>

**342. Fish and Wildlife. A fish and wildlife plan follows:**

**342.100.** The sediment pond will be maintained through the life of the operation and will be removed when effluent criteria is met following reclamation.

**342.200.** Rangeland for domestic stock is the secondary intended postmining land use with wildlife habitat as the primary land use. Plant species appropriate for enhancing the wildlife habitat were selected on the basis of known wildlife requirements including nutritional value for fish and wildlife, use as cover for fish and wildlife and ability to support and enhance fish and wildlife habitat. The Pinyon/Juniper area will be enhanced and reclaimed to the Grass/Shrub community type. The habitat type provides excellent winter range for big game, as well as, an increase in rodent populations which in turn are beneficial to raptors. The Lila Canyon EA has stipulated that in excess of 70 acres of wildlife habitat will be enhanced to help offset negative impacts.

**342.210.** This section is addressed in 342.200.

**342.220.** This section is addressed in 342.200.

**342.230.** This section is addressed in 342.200.

**342.300.** This section is not applicable.

**342.400.** This section is not applicable.

**350. Performance Standards**

**351.** All coal mining and reclamation operations will be carried out according to plans provided under R645-301-330 through R645-301-340.

**352.** Lila Canyon Mine will implement contemporaneous reclamation on all

areas that are disturbed through construction or in the course of mining that will not be utilized for future activity that constitutes continued disturbance.

- 353.** General Requirements. The Permittee will establish on regraded areas and on all other disturbed areas a vegetative cover that is in accordance with the approved permit and reclamation plan. The first available season following abandonment / completion the area will be seeded and mulch in accordance with the approved reclamation plan.

- 353.100** The contemporaneous seed mix TABLE 3-5 is capable of self-regeneration.

The seed mix in Table 3-5 is designed to be compatible with native plant species and beneficial to the animals indigenous to the area for both forage and cover.

All seed used in contemporaneous revegetation will be certified and in compliance with all state and federal laws governing seeding.

- 353.130.** The vegetative cover will be at least equal in extent of cover to the natural vegetation of the area; and

- 353.140.** Capable of stabilizing the soil surface from erosion.

- 353.200.** The reestablished plant species will:

- 353.210.** Be compatible with the approved postmining land use:

- 353.220.** Have the same seasonal characteristics of growth as the original vegetation:

- 353.230.** Be capable of self-regeneration and plant succession:

- 353.240.** Be compatible with the plant and animal species of the area; and:

- 353.250.** Meet the requirements of applicable Utah and

federal seed, poisonous and noxious plant; and introduced species laws or regulations.

**353.300.** The Division may grant exception to the requirements of 353.220 and 353.230 when the species are necessary to achieve a quick-growing, temporary, stabilizing cover, and measures to establish permanent vegetation are included in the approved permit and reclamation plan.

**353.400.** There are no prime farm lands within the permit area or anticipated crop lands.

**354.** Timing: Seeding will occur between September 30 and may proceed up until March 30 depending on snow and frost condition

DOGM has expressed a concern over the fall planting of the warm season species, Blue grama and Galleta. Both of these species are in evidence at the Horse Canyon Site, which was reclaimed in the fall of 1991. However, UEI is committed to use these species in the interim seed mix, adjacent to the sediment pond. Area 1, the Southeast corner, and Area 4 the Northwest corner of the pond disturbance, will be seeded mid summer (July) following the construction. Area 2, the Southwest quarter and Area 3 the Northeast quarter of the disturbance, will be seeded late fall (October) following construction. The line separating the four areas will be staked on the ground. Ocular estimates of the success of the reclamation will be implemented each fall for 3 years following the reclamation. In year 4, if there appears to be an apparent difference in success, a quantitative sample will be taken. The sample will identify both species composition as well as overall vegetative cover for both areas.

If in the event a conclusion as to the timing of planting results in a significant degree of success, the reclamation plan can be modified during the 5 year renewal process.

**355.** Mulch will be applied on the same bases as indicated for permanent reclamation.

**356.** Standards for Success:

**356.100** Success of revegetation will be judged on the

effectiveness of the vegetation for the approved postmining land use, the extent of cover compared to the extent of cover of the reference area.

- 356.110.** Standards for success, statistically valid sampling techniques for measuring success, and approved methods are identified in the Division's "Vegetation Information Guidelines, will be followed closely. (See "Lila Canyon Vegetation Inventory" found in Appendix 3-1)
- 356.120.** Standards for success recommended in the "Vegetation Information Guidelines" will be followed closely. (See "Lila Canyon Vegetation Inventory" found in Appendix 3-1)
- 356.200.** Standards for success will be applied in accordance with the approved postmining land use of wildlife and incidental use by domestic stock.
- 356.210.** This Section does not apply since the area is post mining wildlife habitat, with incidental use by domestic stock.
- 356.220.** This Section does not apply since there are no agriculture lands within the permit area and no prime farm lands. See Chapter 2, Appendix 2-1 (Prime Farmland Letter).
- 356.230.** Success of vegetation will be determined on the basis of tree and shrub stocking and vegetative ground cover. Such parameters are described as follows:

The requirements for cover, productivity and woody plant density are, at least 90% of the cover, woody plant density and productivity of the reference area with 90% statistical adequacy. The site will be sampled in a manner similar to the method used to sample the reference area.

Diversity will be determined with the following method:

- 1) All species encountered with at least a 20% frequency in the vegetation sampling will be categorized into life forms. The life form categories that will be used are native grass, native broadleaf forbs, native shrub, desirable introduced, and undesirable. Undesirable species are those generally classified as weeds or that are poisonous to livestock. If there is any question whether a species should be considered undesirable, the Division and UtahAmerican will consult with the Emery County Weed Department.
- 2) The standard will be that the reclaimed area must have at least as many native grass, native broadleaf forbs, and native shrub species occurring at 20% or greater frequency as the reference area. For example, if the reference area has 3 native shrub species occurring at 20% or greater frequency, the reclaimed area must also have this many species. The species do not need to be the same.

Essentially the same method would be used to judge seasonality, but the only categories would be warm and cool season.

Erosion control relative to both vegetation density and species composition would be based on effluent standards as committed in the UDPES permit. All drainages leading away from the permit area will be sampled as often as practical. When effluent standards are met, the vegetation will have demonstrated its erosion control effectiveness. Woody plant density for the entire area will be established with 1,500 plants per acre, unless the Divisions consultation with area agencies determines a different density.

**356.231.** (See Section 256.230)

**356.232.** Tree stocking / woody plant density will meet or exceed UDOGM guidelines for bond release.

**356.233.** Success standards for vegetative ground cover: (See Section 256.230)

**356.240.** This Section does not apply since no portion of the permit area will be used for industrial, commercial or residential use.

**356.250.** No pre-law mining occurred on the Lila Canyon Permit area.

**356.300.** Lila Canyon Mine is committed to maintain siltation structures until vegetative cover is adequate to allow runoff to meet affluent limits as directed by UDOGM at a minimum two years following vegetation establishment.

**356.400.** Lila Canyon Mine will have all disturbance associated with removal of siltation structures seeded and mulch in accordance with the approved revegetation plan.

**357. Revegetation: Extended Responsibility Period.**

**357.100.** The period of extended responsibility for successful vegetation will begin after the last year of seeding, fertilization, irrigation, or other work, excluding approved husbandry practices.

**357.200.** Vegetation parameters will equal or exceed the approved success standard during the growing seasons for the last two years of the responsibility period. The period of extended responsibility will continue for five or ten years based on precipitation data.

**357.210.** Since Lila Canyon has an average annual precipitation of less than 26.0 inches this section is not applicable.

**357.220.** The mine plan area averages nine inches at the lowest elevation (area of greatest disturbance) to fourteen to sixteen inches at the highest elevation. Lila Canyon Mine will assume the ten year bond liability period.

**357.300. Husbandry Practices - General Information**

**357.301.** Lila Canyon Mine would like to reserve the right to apply for augmentation of reclaimed area extending the bond liability period on a site specific case scenario.

**357.302.** Husbandry practices proposed for the reclaimed areas are not necessitated by inadequate grading practices, adverse soil conditions, or poor reclamation procedures.

**357.303.** The Division will consider the entire area that is bonded within the same increment, as defined in R645-301-820.110, when calculating the extent of area that may be treated by husbandry practices.

**357.304.** If it is necessary to seed or plant in excess of the limits set forth under R645-301-357.300, the Division may allow a separate extended responsibility period for these reseeded or replanted areas in accordance with R645-301-820.330.

**357.310. Reestablishing trees and shrubs**

**357.311.** Trees or shrubs may be replanted or reseeded at a rate of up to a cumulative total of 20% of the required stocking rate through 40% of the extended responsibility period.



**357.312.** Lila Canyon Mine has incorporated wood plant / tree seeding into the seed mix (see TABLE 3-4). If after two years following seeding and mulching it is apparent that woody plant density / tree cover appear to be insufficient for bond release; the mine may elect to re-enter selected areas and augment the direct seeding with either / or containerized or bare root seedlings, this determination will need to be made on a site specific bases. The goal for bond release is the establishment of 1500 woody plants per acre.

**357.320.** Based on similar reclamation projects in adjacent areas, the need to control weeds other than by selected removal is unlikely. In the unlikely event that weed control is required by chemical means, R645-357.321 will be followed. In the unlikely event that weed control is required by Biological means, R645-357.323 will be followed. In the unlikely event that weed control is required by mechanical means, R645-357.322 will be followed.

**357.321.** In the unlikely event that weed control is required by Chemical means, R645-357.321 will be followed by mine personnel.

**357.322.** In the unlikely event that weed control is required by Mechanical means, R645-357.322 will be followed by mine personnel.

**357.323.** In the unlikely event that weed control is required by Biological means, R645-357.323 will be followed by mine personnel.

**357.324.** In the unlikely event that weed control practices damage desirable

vegetation, R645-357.324 will be followed by mine personnel.

**357.330.** Wildlife habitat is the priority post mining land use. As such, control of wildlife is not anticipated.

**357.331.** Wildlife habitat is the priority post mining land use. As such, control of wildlife is not anticipated.

**357.332.** Mine personnel do not anticipate a need to implement control measures for small mammals or insects. However, in the unlikely event that control is necessary, R645-357.332 will be followed. The Division must approved animal control methods sited in R645-357.332.

**357.340.** Natural Disasters and Illegal Activities Occurring After Phase II Bond Release. Where necessitated by a natural disaster, excluding climatic variation, or illegal activities, such as vandalism, not caused by any lack of planning, design, or implementation of the mining and reclamation plan on the part of the Permittee, the seeding and planting of the entire area which is significantly affected by the disaster or illegal activities will be allowed as an accepted husbandry practice and thus will not restart the extended responsibility period. Appendix C of the Division's "Vegetation Information Guidelines" references publications that show methods used to revegetate damaged land. Examples of natural disasters that may necessitate reseeding which will not restart the extended responsibility period include wildfires, earthquakes, and mass movements originating outside the disturbed area.

**357.341.** The extent of the area where seeding and planting will be allowed

will be determined by the Division in cooperation with the Permittee.

**357.342.** All applicable revegetation success standards will be achieved on areas reseeded following a disaster, including R645-301-356.232 for areas with a designated postmining land use of forestry or wildlife.

**357.343.** Seeding and planting after natural disasters or illegal activities will only be allowed in areas where Phase II bond release has been granted.

**357.350.** No Irrigation is anticipated.

**357.360.** Rills and gullies in excess of eight inches width and / or depth will be repaired on a seasonal bases. Repairs will be made in such manner that minimizes additional disturbance and yet is cost effective based on site specific conditions.

**357.361.** After the first 20% of the extended responsibility period but prior to the end of the first 60% of the responsibility period or until Phase II bond release, whichever comes first, highly erodible area and rill and gully repair will be considered augmentative, and will thus restart the responsibility period, if the area to be repaired is greater than 3% of the total disturbed area or if a continuous area is larger than one acre.

**357.362.** The extent of the affected area will be determined by the Division in cooperation with the Permittee.

- 357.363.** The area affected by the repair of highly erodible areas and rills and gullies is defined as any area that is reseeded as a result of the repair. Also included in the affected areas are interspatial areas of thirty feet or less between repaired rills and gullies. Highly erodible areas are those areas which cannot usually be stabilized by ordinary conservation treatments and if left untreated can cause severe erosion or sediment *damage*.
- 357.364.** The repair and/or treatment of rills and gullies which result from a deficient surface water control or grading plan, as defined by the recurrence of rills and gullies, will be considered an augmentative practice and will thus restart the extended responsibility period.
- 357.365.** The areas of concern on the initial reclamation are those natural drainage channels which will be reconstructed during the earth moving phase of reclamation. Specific design and specifications are included in Chapter 7 (Drainage Design). All regraded areas in excess of three percent slope will be sacrificed to aid in the retention of moisture and minimize erosion. Areas in excess of 3:1 slopes will receive additional mulch and tac to facilitate vegetation establishment.
- 358.** Protection of Fish, Wildlife Values: Mine personnel will be trained annually on environmental awareness, a portion of the training will deal with wildlife concerns, such as avoidance during stress periods, caution in driving to and from work during peak usage periods, recognition of any threatened and endangered species

etc. Speed limits will be posted to minimize vehicular / wildlife accidents. In addition, all suitable water encountered during mining will be discharged in such a manner to make it available to wildlife.

**358.100.** Appendix 3-3 is a letter from U.S. Fish and Wildlife Service identifying all threatened and endangered species that could occur in the permit area or within a one-half mile proximity. All mine personnel will be trained about these species and notify the environmental coordinator at the mine. The environmental coordinator will confirm, if possible, the identification, notify USFWS and the Division, and then take what ever actions are necessary to safeguard both the species and it's habitat.

In addition, a threatened and endangered species inventory will be conducted prior to any disturbance. Historical as well as current threatened and endangered inventories are included in Appendix 3-4.

Prior to any new surface disturbance a raptor inventory will be conducted to ensure that no raptors or their nests or young would be adversely impacted through any mining or mine related activity. A copy of historical raptor data as well as current survey results are attached as Appendix 3-5.

A one-half mile buffer zone of no new disturbance during critical nesting periods will be maintained during that portion of the year that the nest sites are active.

As part of normal mining operation requirements, the Permittee must submit all results of the raptor fly-over surveys to the Division in Annual Reports and must immediately contact the Division, BLM, and USFWS following any raptor survey that shows that eagles are tending nests or nesting. The agencies will immediately coordinate to determine if the Permittee must implement appropriate measures. If the agencies recommend mitigation, the Permittee must submit all plans to the Division for incorporation into Appendix 3 of the MRP.

In the event of unforeseen changes in construction or

mine plans, or in the case of emergency situations that may force the Permittee to conduct activity near or within the 0.5 mile buffer zone of raptor nest and during raptor exclusionary periods (February 1 to July 15 for golden eagles), the Permittee will immediately contact the Division, BLM, DWR, and USFWS. The agencies will immediately coordinate to determine appropriate measures that may include conducting ground surveys, in coordination with DWR, to determine if birds are tending nests or nesting and possibly determine the life stage of the offspring; developing a mitigation plan, in coordination with the agencies, for possible impacts to nests or birds; or ceasing operations until the end of breeding season to avoid 'take'. If the agencies recommend surveys, the Permittee must submit all survey results to the Division in Annual Reports. If the agencies recommend mitigation, the Permittee must submit all mitigation plans to the Division for incorporation

- 358.200.** No coal mining and reclamation operations will be conducted in a manner which would result in the unlawful taking of a bald or golden eagle, its nests, or any of the eggs.
- 358.300.** This section is addressed in 358.200.
- 358.400.** There are no wetlands and / or riparian areas within the area of potential disturbance.
- 358.500.** Each operator will, to the extent possible using the best technology currently available:
- 358.510.** All power and transmission lines will be designed with the best technology available to safeguard raptors.
- 358.520.** All structures; fences, conveyors etc., will be designed to allow free movement of large mammals except in those areas where it is necessary to preclude large animals for their own safety; example: power substations, oil storage area etc.

**358.530.**

All structures; fences, conveyors etc., will be designed to allow free movement of large mammals except in those areas where it is necessary to preclude large animals for their own safety; example: power substations, oil storage area etc.

**731.521 Portal Location** The proposed access portals are below the coal outcrop, as shown on Figure 7-1, Plates 5-5 and 7-5. The fan is to be located above, at the outcrop. The rock slopes will slope up to the east at approximately 12% to contact the coal seam; however, the coal seam is dipping down to the east in this area. The approximate point of contact between the rock slopes and the coal seam will be 1227' from the surface at an elevation of 6300'. Ground water levels in the mining area, based on the 3 water monitoring

holes and other geologic data, appear to be nearly static at elevation 5990 in this area (see Figure 7-1).

Water level in the mine would have to raise approximately 310' to reach the rock slope/coal seam contact and result in a gravity discharge. Water monitoring results and other historical data in the area do not indicate this is likely to occur.

**731.522 Surface Entries after January 21, 1981** This is not known to be an acid-producing or iron-producing coal seam; however, proposed portals are located to prevent gravity discharge from the mine (see Section 731.521).

**731.600 Buffer Zones** All streams within the permit area are either ephemeral or intermittent by rule with ephemeral flow. In the area of the surface facilities along the intermittent by definition Lila Wash, the Operator will install stream buffer zone signs in locations shown on Plate 5-2 and maintain the buffer zones throughout Phase 1 of the reclamation period.

**731.700 Cross Sections and Maps** The following is a list of cross-sections and maps provided in this section of the P.A.P.

Plate 7-1 Permit Area Hydrology Map

Plate 7-2 Disturbed Area Hydrology/Watershed

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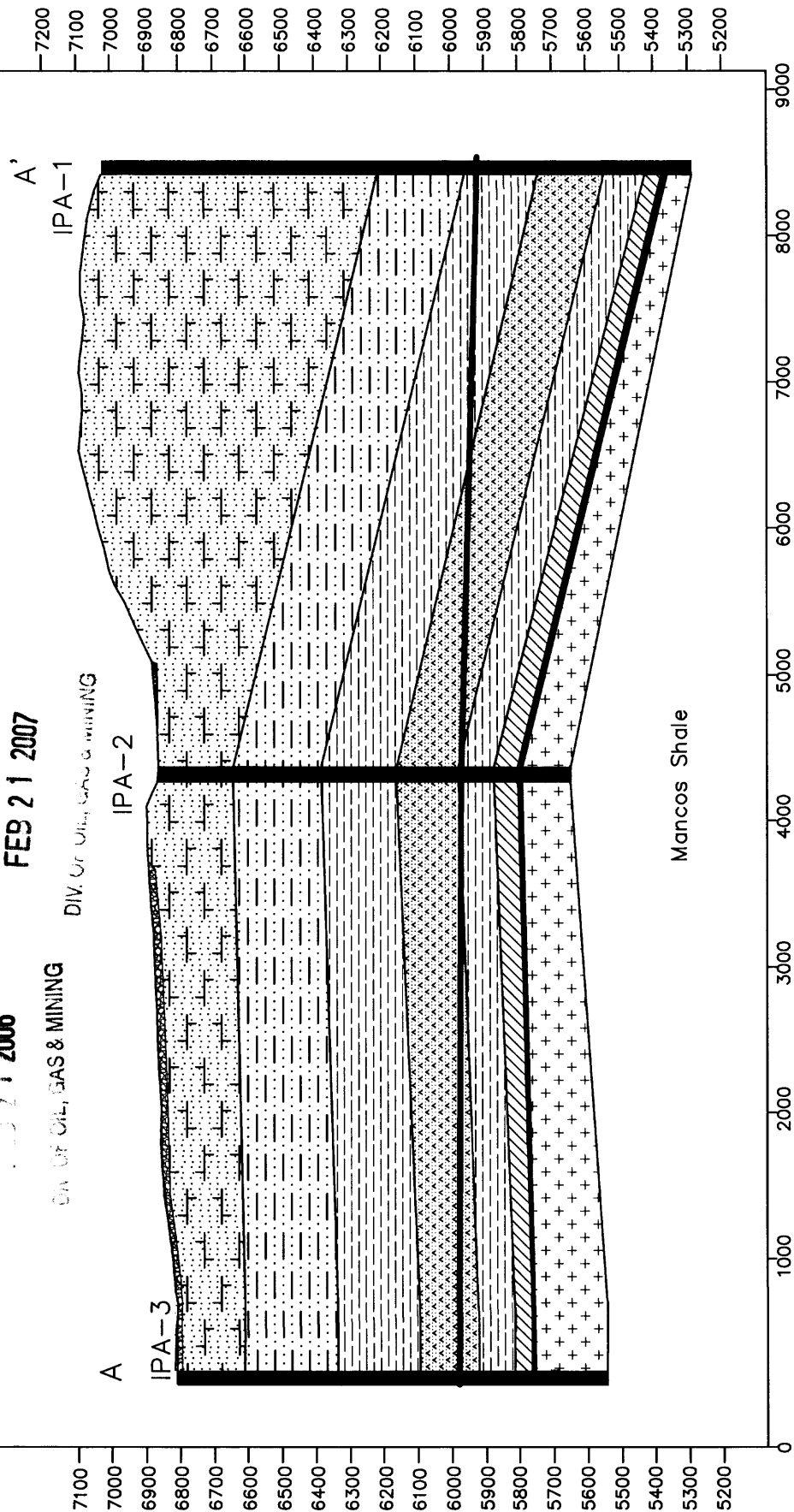
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Upper Mudstone Member, Blackhawk Fm.

Grassy Member, Blackhawk Fm.

Sunnyside Coal Seam

Sunnyside Member, Blackhawk Fm.

Potentiometric Surface

Quaternary Alluvium

Flagstaff-North Horn Fm.

Bluecastle Member, Price River Fm.

Mudstone Member, Price River Fm.

Castlegate Sandstone

Mancos Shale

GEOLOGIC CROSS SECTION

IPA WELLS

Horse Canyon

FIGURE 7-1

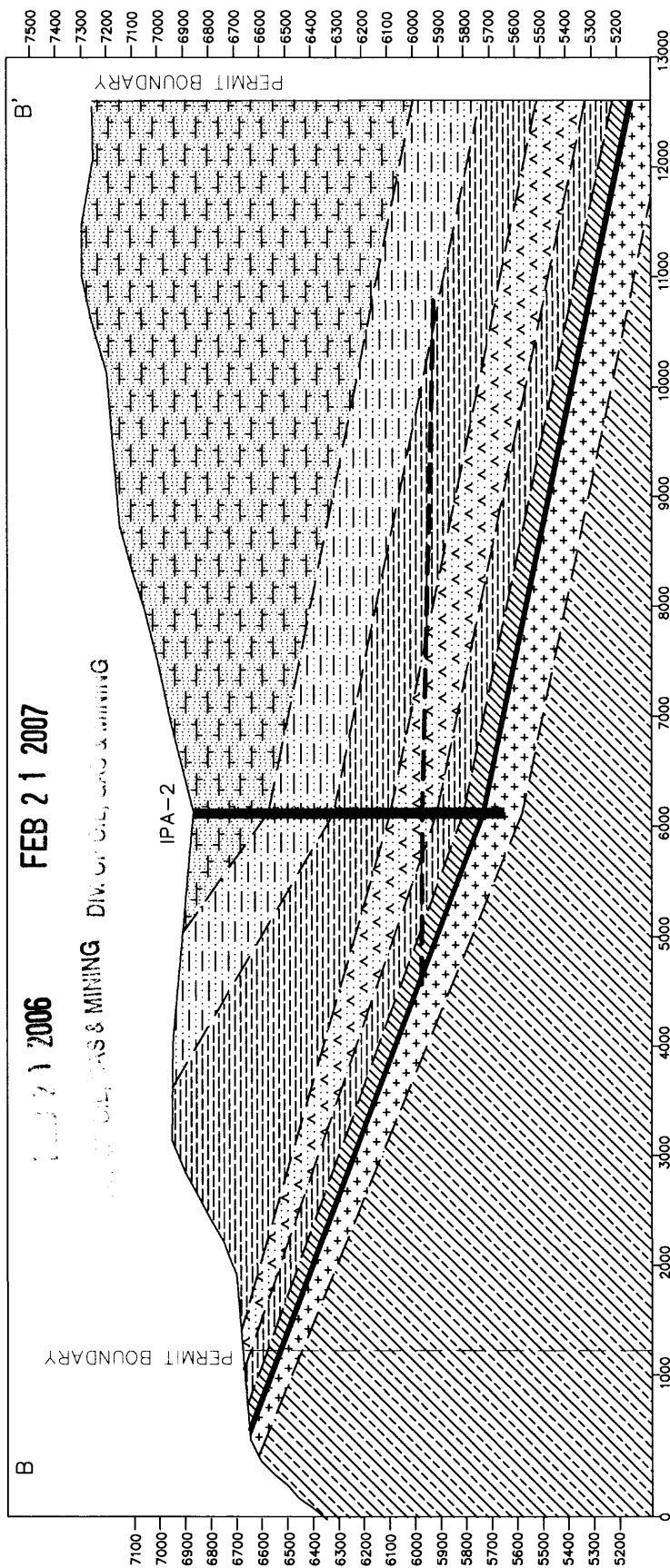


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- Flagstaff-North Horn Fm.
- Bluecastle Member, Price River Fm.
- Mudstone Member, Price River Fm.
- Castlegate Sandstone
- Upper Mudstone Member, Blackhawk Fm.
- Grassy Member, Blackhawk Fm.
- Sunnyside Coal Seam
- Sunnyside Member, Blackhawk Fm.
- Mancos Shale
- Potentiometric Surface
- Projected Lithologic Contact

EAST TO WEST CROSS SECTION

FIGURE 7-1A





United States Department of the Interior  
FISH AND WILDLIFE SERVICE

UTAH FIELD OFFICE  
2300 WEST ORTON CIRCLE, SUITE 50  
WEST VALLEY CITY, UTAH 84119

In Reply Refer To:

FWS/R6

ES/UT

7-FA-0092

January 22, 2007

Pamela Grubaugh-Littig  
Utah Division of Oil, Gas & Mining  
1594 West North Temple, Suite 1210  
Box 145801  
Salt Lake City, Utah 84114-5801

RE: Lila Canyon Extension of Horse Canyon Mine, Utah American Energy, Inc., Utah State  
Permit C/007/0013

Dear Ms. Grubaugh-Littig:

This letter conveys the Fish and Wildlife Service (Service) position regarding impacts to migratory birds, specifically golden eagles, from the Lila Canyon extension of the Horse Canyon mine, located in Emery County, near East Carbon and Sunnyside, Utah. Five golden eagle nests are located within approximately 0.5 miles from the surface facility area, and could be subject to disturbance from surface construction activities. In addition, possibly as many as three golden eagle nests are located within the subsidence risk zone and could be impacted by subsidence resulting from underground mining activities.

The Utah Division of Oil, Gas, and Mining (UDOGM) requested (personal communication with Jerriann Ernsten, January 18, 2007) our assistance in order to ensure the proposed project avoids and minimizes take of migratory birds and impacts to their habitat in accordance with the Migratory Bird Treaty Act (MBTA), the Bald and Golden Eagle Protection Act (BGEPA). Under authority of the MBTA, it is unlawful to take, kill, or possess migratory birds, their parts, nests, or eggs. Take is defined (50 CFR 10.12) as to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect. The BGEPA provides additional protection beyond the MBTA, prohibiting disturbance or destruction of bald or golden eagle nests at any time.

We believe that the construction disturbance that is proposed to occur with the mine expansion will not be likely to result in take. We make this determination based on the following commitments that have been agreed upon by the mine operator and the agencies (UDOGM, Bureau of Land Management [BLM], Utah Division of Wildlife Resources [UDWR], and the Service) and will be a requirement of the mining permit issued by UDOGM:

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**State of Utah**

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Governor

GARY K. HEEBLY  
Lieutenant Governor

**Department of Community and Culture**

PALMER DePAULIS  
Executive Director

**State History**

PHILIP F. NOTARIANNI  
Division Director

February 5, 2007

Mary Ann Wright  
Associate Director  
Division of Oil, Gas, and Mining  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, UT 84114-5801

RE: Lila Canyon Extension, Horse Canyon Mine, C/007/0013, Task ID #2741

In reply, please refer to Case No. 05-0305

Dear Ms. Wright:

The Utah State Historic Preservation Office received your request for comment on the above referenced project on February 2, 2006. We understand that you are acting on behalf of a federal agency, the Office of Surface Mining (OSM).

We concur with your determinations of eligibility for this project. We concur with your determination of Adverse Effect. We agree that the proposed Programmatic Agreement and Memorandum of Agreement are appropriate measures to address known or unknown effects to known or unknown cultural and historic resources on this project. We look forward to finalizing those documents.

This letter serves as our comment on the determinations you have made on behalf of OSM, within the consultation process specified in §36CFR800.4. Additionally, Utah Code 9-8-404(1)(a) denotes that your agency is responsible for all final decisions regarding cultural resources for this undertaking. Our comments here are provided as specified in U.C.A. 9-8-404(3)(a)(i). If you have questions, please contact me at (801) 533-3555 or [mseddon@utah.gov](mailto:mseddon@utah.gov).

Sincerely,

Matthew T. Seddon, Ph.D., RPA  
Deputy State Historic Preservation Officer - Archaeology

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**State of Utah**

**Department of  
Natural Resources**

MICHAEL R. STYLER  
*Executive Director*

**Division of  
Oil, Gas & Mining**

JOHN R. BAZA  
*Division Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY R. HERBERT  
*Lieutenant Governor*

February 5, 2007

John Eddins  
Advisory Council on Historic Preservation  
1100 Pennsylvania Avenue NW, Suite 803  
Washington, D.C. 20004

Subject: Requesting Review And Participation As A Signatory Of A Programmatic Agreement With Attached Memorandum of Agreement For Lila Canyon Extension, UtahAmerican Energy, Inc. (UEI), Horse Canyon Mine, C/007/0013, Task #2741, Outgoing File

Dear Mr. Eddins:

In accordance with 36 CFR Part 800.2 (a), Pete Rutledge, Chief, Program Support Division at the Western Regional Coordinating Center, Office of Surface Mining (OSM), delegated the legal authority to the Utah Division of Oil, Gas & Mining (the Division) to act on behalf of OSM and conduct Section 106 regarding federal undertakings. The Division assumes the role of agency official with the continued assistance from OSM. Accordingly, we are requesting your review and participation as a signatory of the attached Programmatic Agreement (PA) with an Attached Memorandum of Agreement on the proposed Lila Canyon Extension as per Section 106 of the National Historic Preservation Act, as amended, and its implementing regulation at 36 CFR Part 800.

The enclosed map (Attachment 1) illustrates that the proposed Lila Canyon Extension of the Horse Canyon Mine is located in Emery County, Utah (7.5 Minute USGS Quadrangle map is Lila Point). The legal description for the proposed extension is: T16S R14E Sections 10, 11, 12, 15, 14, 13, 22, 23, 24, 26, and 25, and in T16S R15E Sections 19 and 30 (SLBM). The proposed extension area is about 4,660 acres, which includes approximately 42 acres of surface disturbance for the facility site. The Bureau of Land Management (BLM), School and Institutional Trust Lands Administration, and Josiah Eardley are surface landowners and BLM is the subsurface owner.

The Division reviewed reports of archaeological inventories previously conducted of the proposed surface facility site (Montgomery 1998; Attachment 2) and transportation and utility corridors (Montgomery 1998, Attachment 3). The Division then began consultation and advisement communications with Emery and Carbon counties, OSM, BLM, Public Lands Policy Coordination Office, numerous tribes, Southern Utah Wilderness Alliance (SUWA), Dr. Everett Bassett (Transcon Environmental – the Division's archaeology consultant), and Utah State Historic Preservation Officer (SHPO).

Page 2  
John Eddins  
February 5, 2007

As part of the consultation efforts, the Division identified the *area of potential effect* (APE I and II; Attachment 4), the course of additional identification efforts, and measures that would avoid, minimize, or mitigate possible adverse effects. The Division determined that it was prudent to conduct an additional surface archaeological inventory of the area of potential subsidence (APE II). Montgomery Archaeological Consultants conducted a Class II inventory during the summer of 2006 (Attachment 5).

In summary, there are three prehistoric sites that were previously determined as eligible for inclusion in the National Register of Historic Places within or adjacent to the proposed extension area. One prehistoric site (42EM2517) may be susceptible to impacts caused by vandalism (Montgomery 1998). The BLM would implement the mitigation plan for 42EM2517 as directed in the Memorandum of Agreement (MOA, 2007) prior to construction of the facility site. The other two eligible sites (42EM2255 and 42EM2256) are subject to potential subsidence (Jendresen et al. 2006; Miller 1991 [Attachment 6]). The Programmatic Agreement (PA, 2007) addresses related protection measures for archaeological resources such as these two sites.

There are four recorded sites within or adjacent to the extension area that were previously determined as not eligible. These sites include one prehistoric site (42Em1121) and three historic sites (42Em1335, 42Em1337, and 42Em1339). There are also five isolated finds that exist within or adjacent to the extension area that were previously recommended as not eligible. The Division concurs with the previously mentioned determinations.

There are three newly recorded sites (42Em3623, 42Em3622, and 42Em3659), which are historic in nature and considered common. These three sites are not eligible because they do not meet any of the National Register Criteria. The Division has not identified other sites within the boundaries of APE I or II.

The Division, BLM, OSM, and SHPO prepared the DRAFT PA (2007; Attachment 7) and DRAFT MOA (2007; Attachment 8) as measures to protect, avoid, or mitigate for known and unknown archaeological resources. The Division has sent these DRAFTS, as well as SHPO's response to our findings, to the consulting parties.

The Division considers that the proposed Lila Canyon Extension would have an "*adverse effect*" on cultural resources. We also consider that subsidence may have effects on resources not identified or unexpected effects on resources identified during identification efforts. Furthermore, that the PA and MOA would provide prudent protection measures to address known or unknown effects to cultural and historic resources. Respectfully, we are requesting your review and participation

STATE OF UTAH  
DIVISION OF WATER QUALITY  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
SALT LAKE CITY, UTAH

AUTHORIZATION TO DISCHARGE UNDER THE  
UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM  
(UPDES)

GENERAL PERMIT FOR COAL MINING

In compliance with provisions of the *Utah Water Quality Act, Title 19, Chapter 5, Utah Code Annotated ("UCA") 1953, as amended* (the "Act"),

Utah American Energy - Lila Canyon Mine

as identified in the application No. UTG040024 is authorized to discharge from all outfall(s) to receiving waters named:


Grassy Wash to Marsh Flat to the Price River

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions as set forth herein.

This permit shall become effective on May 1, 2003.

This permit and the authorization to discharge shall expire at midnight, April 30, 2008

Signed this 24th day of April, 2003.

  
Don A. Ostler  
Executive Secretary  
Utah Water Quality Board

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STATE OF UTAH  
DIVISION OF WATER QUALITY  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
SALT LAKE CITY, UTAH

AUTHORIZATION TO DISCHARGE UNDER THE  
UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM  
(UPDES)

GENERAL PERMIT FOR COAL MINING

In compliance with provisions of the *Utah Water Quality Act, Title 19, Chapter 5, Utah Code Annotated ("UCA") 1953, as amended* (the "Act"),

Utah American Energy - Horse Canyon Mine

as identified in the application No. UTG040013 is authorized to discharge from all outfall(s) to receiving waters named:


Horse Canyon Creek

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions as set forth herein.

This permit shall become effective on May 1, 2003.

This permit and the authorization to discharge shall expire at midnight, April 30, 2008

Signed this 24th day of April, 2003.

  
Don A. Ostler  
Executive Secretary  
Utah Water Quality Board

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